

Federal Communications Commission	
Case No. <u>95-11</u>	Exhibit <u>8</u>
Applicant <u>Schoenbohm</u>	
Action	Identified <input checked="" type="checkbox"/>
	Received <input checked="" type="checkbox"/>
	Rejected <input type="checkbox"/>
Reporter <u>SP</u>	STATEMENT IN RESPONSE TO ISSUE C(1)
Date <u>4-1-97</u>	

Schoenbohm Ex. 8, page 1

Herbert L. Schoenbohm hereby declares under penalty of the laws of perjury that the following is true and correct:

1. In my testimony at the prior hearing in this proceeding, I responded to a question from my attorney which inquired, in substance, as to the nature of the counterfeit access devices, which were in my possession. My attorney asked that question because, prior to the hearing, I specifically asked him to make it clear that I did not possess or use any mechanical, electro-mechanical, or magnetic access devices; that the only devices I had were telephone numbers in my mind.

2. I obtained these numbers under the following circumstances: Sometime in 1987, I learned of a service offered by Caribbean Automated Long Lines Service, "CALLS", which offered discounted prices on long distance telephone calls. I was interested in saving money on my phone bill, so I contacted a CALLS sales representative by telephone. She furnished me with a six digit number which could be used to access the CALLS system. The procedure was to call a telephone number for the CALLS system. When the number answered, the customer would enter the six digit access number and this would allow him to then dial a long distance number through CALLS. CALLS kept a record of the customer use of the system, so that the customer could be billed.

3. Later, I decided to obtain CALLS access numbers for my wife and my son. Once again, these numbers were voluntarily furnished to me by CALLS personnel, so that, altogether, I had a total of three of these six digit numbers.

4. I used the numbers routinely to make long distance calls, assuming that I would be sent a bill by CALLS. However, no bill arrived. Instead, I learned from a friend that CALLS was having financial difficulties and that the owner of CALLS felt that I was somehow responsible for thousands of dollars of losses. As soon as I heard of this I immediately stopped using the CALLS system and made no further use of the CALLS numbers. Nevertheless, I was eventually indicted and convicted on the charges previously described in this FCC proceeding.

5. I have always thought it important, however, that I was not convicted of possessing or using any electrical or physical

device. That is why I asked my attorney to make that clear at the hearing. I again affirm that I did not possess or use any "blue box",¹ slugs², counterfeit credit cards, or any other electronic, mechanical, or electro-mechanical devices, which either could be used or were used to make long distance telephone calls without paying for them. At the time I did have a Commodore 64 computer, equipped with a modem and dialer. However, I never used it to make any unauthorized telephone calls to anybody. My conviction was based solely upon the use or possession of three six digit numbers which had been given to me by CALLS.

6. With respect to my loss of pension rights, I did, in fact, lose all of my pension rights when I lost my job at the Virgin Islands Police Department. My estimate that these rights amounted to at least \$150,000 was a very conservative estimate. If I had a pension paying at least \$10,000 per year, and lived for at least 15 years, I would have lost at least \$150,000. In truth, I have investigated and I believe that my pension would have been somewhat more than \$10,000 per year. Furthermore, I believe it very likely that I will live more than 15 years after I retire. Thus, I believe that my estimate of \$150,000 is actually less than the amount that I actually lost.

7. It is true that I have now become employed by the Virgin Islands Government, and that I am now back in the system, so that my pension rights have been restored. The fact remains, however, that I lost my rights when I was fired from the police department and that my family and I had no way of knowing whether those rights would ever been restored. For two years, we had to confront the fact that the rights had been lost and that the loss could well be permanent. Thus, I feel that the loss of pension rights is a legitimate factor to be considered in assessing the suffering inflicted upon my family and myself as a result of my conviction.

8. Finally, with respect to the alleged violation of the "ex parte" rule, I wish to point out that the conversation which forms the basis for the alleged violation of that rule was a "one-on-one" conversation, between myself and a friend, Malcolm Swan. It was not a private conversation, because there is no way of guaranteeing the privacy of any conversation which takes place over

¹A "blue box" is an electronic circuit which was sometimes used by hackers in the 1970's and 1980's and connected across a telephone line to deceive the telephone network into allowing calls to be made without charging for them.

²A "slug" is a counterfeit coin sometimes used to deceive a pay telephone into thinking that money has been deposited when it has not.

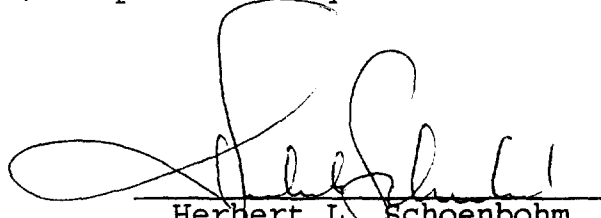
the ham bands; other persons could always be eavesdropping. On the other hand, Mr. Swan and I were not participating in any network of any kind. The frequencies which we were using had just opened up after a period of time during which they had been dead, and no other hams ("breakers") had broken in to join in our conversation. Thus, in my mind I was speaking to Malcolm as a friend, not to the world at large, and expounding on my newly discovered knowledge of the ex parte rules. I told him, in substance, that I could not write to politicians or people at the FCC without violating the rules, but that others could do so. I told him that I hoped that if others did, in fact, write, they would include certain information in their letters. However, I did not ask him to write to anybody, and he did not, in fact, write to anybody.

9. As I said before, I did not know at the time that the ex parte rule also prohibited me from encouraging other people to write to politicians on my behalf. If I had known of that portion of the rule, I would not have said what I said to Mr. Swan, lest it be misinterpreted as solicitation. No harm was done, however, because so far as I can determine nobody ever wrote to any politician or to the FCC in support of my application.

D E C L A R A T I O N

Pursuant to Section 1.16 of the Rules and Regulations of the Federal Communications Commission, Herbert L. Schoenbohm hereby declares under penalty of the laws of perjury that the foregoing statements are true and correct and submits this declaration in lieu of a notarized statement, as permitted by the aforementioned rule.

Dated this 28 day
of February, 1997.


Herbert L. Schoenbohm
Individual Applicant

Federal Communications Commission	
File No. <u>95-11</u>	Exhibit <u>9</u>
Applicant <u>Schoenbohm</u>	
Disposition	Identified <input checked="" type="checkbox"/>
	Received <input checked="" type="checkbox"/>
	Rejected <input type="checkbox"/>
Reporter <u>GP</u>	
Date <u>4-1-97</u>	STATEMENT IN RESPONSE TO ISSUE C(2)

Schoenbohm Ex. 9, page 1

Herbert L. Schoenbohm hereby declares under penalty of the laws of perjury that the following is true and correct:

1. I make this Declaration in response to Issue (c)(2) in the proceeding involving the renewal of my amateur license. That issue seeks to determine whether, in a conversation with a fellow amateur, I discussed the use of unauthorized access codes to make long distance calls.

2. The conversation in question took place between myself and two other amateurs, Dan Worely and Tony Benvenuti. At the time, Dan Worley was working for CALLS. A transcript of that conversation, furnished to me by the WTB, is attached. I agree that the transcript is substantially accurate.

3. Some time in 1987, or thereabouts, I noticed that some businesses in Tortola in the British Virgin Islands were advertising that they had local telephone numbers in the U.S. Virgin Islands. I knew that a gentleman by the name of Ackley had a so-called "YB system", which could be used illegally to transmit signals between the U.S. and British Virgin Islands and to enable merchants in the British Virgin Islands to be reached by calling a local number in the U.S. Virgin Islands. I checked with the telephone company in the U.S. Virgin Islands and learned that a block of telephone numbers had been assigned to Mr. Ackley. These telephone numbers were local calls within the U.S. Virgin Islands.

4. I began calling these numbers and listening on frequencies licensed to Ackley to determine whether a call to these numbers would activate Ackley's transmitters. During the conversation which was the subject of the attached transcript, I called a number of these telephone numbers for the purpose of demonstrating to other amateurs that calling these numbers would, in fact, activate transmitters owned by Ackley or his company. I did this to encourage the other amateurs to pursue Ackley's illegal operations and to assist me in closing down these illegal operations. I also wrote a letter to Riley Hollingsworth at the FCC, specifically complaining about these illegal operations.

5. In any event, the telephone numbers which I dialed were simply telephone numbers which I picked out of the local yellow pages and/or numbers which were in the block of numbers which I learned from the telephone company would have been assigned

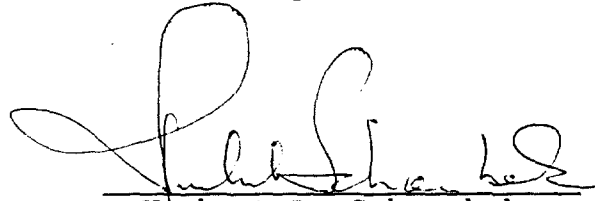
to Mr. Ackley or his company. These numbers were not "illicit" in any sense of the word. In my opinion, it was perfectly legal for me to dial these telephone numbers and my purpose in doing so was to assist law enforcement in obtaining compliance with the FCC's Rules.

Further declarant sayeth not.

D E C L A R A T I O N

Pursuant to Section 1.16 of the Rules and Regulations of the Federal Communications Commission, Herbert L. Schoenbohm hereby declares under penalty of the laws of perjury that the foregoing statements are true and correct and submits this declaration in lieu of a notarized statement, as permitted by the aforementioned rule.

Dated this 28 day
of February, 1997.


Herbert L. Schoenbohm
Individual Applicant